

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

OUR CHILDREN'S EARTH)	Civ. No. 08-00426 SOM/KSC
FOUNDATION, a non-profit)	
corporation,)	ORDER DENYING PLAINTIFF'S
)	MOTION FOR REASSIGNMENT OF
Plaintiffs,)	ACTION PURSUANT TO LOCAL RULE
)	40.2
v.)	
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY; STEPHEN L.)	
JOHNSON, as Administrator of)	
the UNITED STATES)	
ENVIRONMENTAL PROTECTION)	
AGENCY; and WAYNE NASTRI, as)	
Regional Administrator of the)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Defendants.)	
)	

ORDER DENYING PLAINTIFF'S MOTION FOR
REASSIGNMENT OF ACTION PURSUANT TO LOCAL RULE 40.2

On October 9, 2008, Plaintiff Our Children's Earth Foundation ("OCE") moved for reassignment of this action to Judge David Alan Ezra pursuant to Local Rule 40.2. Because the current action and Judge Ezra's pending actions are not sufficiently related to justify reassignment, OCE's motion for reassignment of action is denied.

Under Local Rule 40.2, a party may seek to have a case reassigned to another judge:

Whenever it shall appear that civil actions or proceedings involve the same or substantially identical transactions, happenings, or events, or the same or substantially the same parties or property or subject matter, or the same or substantially

identical questions of law, or for any other reason said cases could be more expeditiously handled if they were all heard by the same district judge, then the chief district judge or any other district judge appointed by the chief district judge in charge of the assignment of cases may assign such cases to the same district judge. Each party appearing in any such action may also request by appropriate motion that said cases be assigned or reassigned to the same district judge.

Local Rule 40.2.

OCE argues that this action should be reassigned to Judge Ezra because he has three similar actions before him. See Plaintiff's Motion at 2, 13. However, OCE's current action is brought under the Freedom of Information Act, seeking disclosure of information from the United States Environmental Protection Agency regarding sewage spills. The actions pending before Judge Ezra, on the other hand, seek relief under environmental statutes for various sewage-related violations. The actions are not similar and do not seek similar relief. At best, OCE is seeking information in the current action concerning sewage spills for which substantive violations of environmental statutes have been alleged in Judge Ezra's cases. On the present record, this is insufficient to justify reassigning this matter to Judge Ezra. OCE has simply failed to demonstrate any reason that Judge Ezra could decide this matter on a more expeditious basis. Accordingly, the motion to reassign this matter to Judge Ezra is denied.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 15, 2008.



/s/ Susan Oki Mollway
Susan Oki Mollway
United States District Judge

Our Children's Earth Foundation v. U.S. Environmental Protection Agency, Civ.
No. 08-00426 SOM; Order Denying Plaintiff's Motion for Reassignment of Action
Pursuant to Local Rule 40.2.